

**Yakima County
WATER CONSERVANCY BOARD
Application for Change/Transfer
Record of Decision**

For Ecology Use Only

Received:

Tom Spring

Reviewed by: _____
Date Reviewed: _____

Applicant: Henry Oord

Application Number: YAKI-04-02

This record of decision was made by a majority of the board at an open public meeting of the Yakima County Water Conservancy Board held on July 20, 2004.

☒ **Approval:**

The Yakima County Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on _____ and submits this record of decision and report of examination to the Department of Ecology for final review.

☐ **Denial:**

The Yakima County Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on _____ and submits this record of decision to the Department of Ecology for final review.

Signed:

St C Pickett
Steven C. Pickett, Chair
Yakima County Water Conservancy Board

Date: 7-20-04

Approve ☒
Deny ☐
Abstain ☐
Recuse ☐

Jeff Stevens
Jeff Stevens, Member
Yakima County Water Conservancy Board

Date: 7-20-04

Approve ☒
Deny ☐
Abstain ☐
Recuse ☐

Dave Brown, Member
Yakima County Water Conservancy Board

Date: _____

Approve ☐
Deny ☐
Abstain ☐
Recuse ☐

Mailed to the Department of Ecology Central Regional Office of Ecology, via ~~certified mail~~ ^{hand-delivered}, and other interested parties on 07-26-04.

Yakima County
WATER CONSERVANCY BOARD
Application for Change/Transfer
Report of Examination

TO APPROPRIATE PUBLIC WATERS OF THE STATE OF WASHINGTON



Surface Water



Ground Water

DATE APPLICATION RECEIVED March 31, 2004	PERMIT NUMBER	ECOLOGY CHANGE APPLICATION NUMBER CS4-00135CTCL	YCWCB CHANGE APPLICATION NUMBER YAKI-04-02
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NAME Henry Oord			
ADDRESS (STREET) 4581 Maple Grove Rd	(CITY) Sunnyside	(STATE) WA	(ZIP CODE) 98944

Changes Proposed:



Point of Diversion/Withdrawal



Place of Use



Purpose



Temporary



Other

DECISION HISTORICAL SUMMARY

Existing Use						Proposed Use					
QUANTITY, TYPE OF USE, PERIOD OF USE 0.67 cfs, 240 af/yr for irrigation of 80 acres from April 1 through October 31						QUANTITY, TYPE OF USE, PERIOD OF USE 300 gpm; 240 af/yr for continuous dairy operation					
Point of Diversion or Withdrawal						Point of Diversion or Withdrawal					
SOURCE Crystal Springs			TRIBUTARY OF (IF SURFACE WATER) Yakima River			SOURCE Two wells			TRIBUTARY OF (IF SURFACE WATER)		
NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,	NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,
	Gov't	Lot 3	26	10	21 E		SW	SW	35	11	22 E
							NW	SW	35	11	22 E
Place of Use						Place of Use					
LEGAL DESCRIPTION OF LANDS WHERE WATER IS PRESENTLY USED) Lot 2 and that part of Lot 1 and that part of the SW¼SE¼NW¼ lying southerly of the Oregon Washington Railroad and Navigation Company's right-of-way; ALSO, Lot 3, EXCEPT the right-of-way of the Oregon Washington Railroad and Navigation Company; ALSO those parts of Lots 4 and 5 lying southerly of the Oregon Washington Railroad and Navigation Company's right-of-way; all in Section 26, T. 10 N., R. 21 E.W.M. ALSO that portion of Section 27, T. 10 N., R. 21 E.W.M. described as follows: Beginning 412 feet south of the northeast corner of the SE¼NE¼ of said Section 27; thence N 83°15'00" W 836 feet to the river bank; thence southeasterly along said bank 1102 feet to the east line of said SE¼NE¼, Section 27; thence north 830 feet to the point of beginning. Situated in Yakima County, State of Washington.						LEGAL DESCRIPTION OF LANDS WHERE NEW USE IS PROPOSED Within S½ Sec. 35, T. 11 N., R. 22 E.W.M.: All that part of the SW¼ Sec. 35, lying southerly of the Roza Canal, EXCEPT county road right-of-ways. AND all that part of the S½SE¼ of Sec. 35 lying S of Roza Canal and W of a line described as: Beginning at the SW corner of the SW¼SE¼ of said Sec. 35; thence N01°30'W along the W line of said SW¼SE¼ a distance of 21.32 feet; thence N22°41'E to the southerly right of way line of the Roza Canal. AND the following parcels within the NW¼ of Section 2, T. 10 N. R. 22 E.W.M.: Lot 2 of the Short Plat recorded in Book 89 of Short Plats, page 106, under Auditor's File No. 2868751, records of Yakima County, Washington, consisting of 42.38 acres and lying within the N½NW¼ of Sec. 2; AND the S½NW¼ of Section 2, EXCEPT county road right-of-ways.					
NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,	NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,

SEPA

The board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: ☒ Exempt ☐ Not exempt

Water Right Priority Date: December 1, 1960

BOARD'S TENTATIVE DETERMINATION

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE				
	300	240	240 af/yr for continuous dairy operation				
SOURCE			TRIBUTARY OF (IF SURFACE WATER)				
Two wells							
AT A POINT LOCATED:							
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY
221135-31004	SW	SW	35	11	22 E	37	Yakima
221135-31004	NW	SW	35	11	22 E	37	Yakima
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED							
Within S½ Sec. 35, T. 11 N., R. 22 E.W.M.: All that part of the SW¼ Sec. 35, lying southerly of the Roza Canal, EXCEPT county road right-of-ways. AND all that part of the S½SE¼ of Sec. 35 lying S of Roza Canal and W of a line described as: Beginning at the SW corner of the SW¼SE¼ of said Sec. 35; thence N01°30'W along the W line of said SW¼SE¼ a distance of 21.32 feet; thence N22°41'E to the southerly right of way line of the Roza Canal. AND the following parcels within the NW¼ of Section 2, T. 10 N. R. 22 E.W.M.: Lot 2 of the Short Plat recorded in Book 89 of Short Plats, page 106, under Auditor's File No. 2868751, records of Yakima County, Washington, consisting of 42.38 acres and lying within the N½NW¼ of Sec. 2; AND the S½NW¼ of Section 2, EXCEPT county road right-of-ways.							
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,		
221135-31004; 221002-22401, 22402, 23001.							

DESCRIPTION OF PROPOSED WORKS

Two existing wells to supply dairy facilities.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE:	COMPLETE PROJECT BY THIS DATE:	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE:
Begun	December 1, 2007	December 1, 2008

REPORT

BACKGROUND

The Yakima County Water Conservancy Board (Water Board) has jurisdiction to consider the subject application.

On March 31, 2004, Henry Oord of Sunnyside, Washington filed an application for change of water right with the Water Board to change Yakima Adjudication Court Claim No. 00135, application also identified by Department of Ecology (Ecology) number: CS4-00135CTCL, Water Board number: YAKI-04-02.

That said right, under priority 12/1/1960 and confirmed in the Yakima River adjudication by conditional final order dated December 9, 1999, authorizes diversion from Crystal Springs tributary of the Yakima River within Govt Lot 3 of Sec. 26, T10N, R21EWM. The water right issued for irrigation of 80 acres from 4/1 to 10/31 within a place of use generally described as: portions of Secs. 26, 27 of T10N, R21EWM lying N of Yakima River, Yakima County. The right authorizes diversion and use of 0.67 cubic feet per second (cfs) and 240 acre-feet per year (af/yr).

The applicant has provided the Water Board with information regarding historic water use, including information from the state record, aerial photos, a consultant technical report, and a description of the applicant's farming operation. As a result of its investigation, the Water Board made a tentative determination that the right being amended is valid to the extent historically used. The Water Board also tentatively quantified the right for the purpose of the requested transfer, for up to 300 gallons per minute (gpm) and 240 af/yr.

The flow rate subject of transfer is less than 2250 gpm, which is categorically exempt under the State Environmental Policy Act (SEPA). Therefore, compliance has been met under SEPA.

The water right has not been subject of any previous water right change decisions.

COMMENTS AND PROTESTS

Public notice of the application was made in accordance with applicable laws and rules. No comments or protests, including comments provided by other agencies, Indian tribes, or other interested parties were received by the Water Board. The applications have been distributed to other entities as required, including state resources agencies, tribes, and/or interested parties. No comments have been received by the Water Board from these parties.

INVESTIGATION

A. Description of Proposed Project

The applicant proposes to change the source to two wells within SW1/4SW1/4 and NW1/4SW1/4 Sec. 35, T11N, R22EWM., to change the place of use, and to change the purpose of use for continuous dairy operation. This right has historically been diverted from Crystal Springs, which discharges to the Yakima River. The original application included an option for the owner to retain a portion of the right within the current place of use. This option will not be exercised and the entire right is requested for transfer. Through the change, water will no longer be diverted from Crystal Springs. This will allow a cold water input to flow uninterrupted to the Yakima River. The water will instead be pumped from two existing wells which withdraw from the uppermost aquifer at the transfer site, known as the undifferentiated Ellensburg Formation/Upper Saddle Mountains Basalt Formation aquifer, at a location that is 7½ miles away, set back from the river and about two miles down-valley. The wells and water right will supply additional water to an existing dairy.

The requested wells are described in summary as follows:

- SW1/4SW1/4: located approx. 1180 ft N and 120 ft E of SW corner Section 35, T. 11 N., R. 22 E.W.M.; 8 inch casing to 205 feet depth, depth of completed well 230 feet.
- NW1/4SW1/4: located approx. 1850 ft N and 250 ft E of SW corner Section 35, T. 11 N., R. 22 E.W.M.; 8 inch casing to 193 feet depth, depth of completed well 300 feet.

Crystal Springs is located approx. 250 ft S and 1000 ft W of center Sec. 26, T. 10 N., R. 21 E.W.M. within Gov't Lot 3.

Testimony in the adjudication proceedings as well as beneficial use information provided by the applicant were considered by the Water Board. The Water Board has tentatively determined that the court's confirmation of the right's validity and quantities are correct and reaffirms them in this decision.

The existing and proposed place of use and sources are outside the boundary of the Yakama Nation reservation and the application is fully within the jurisdiction of the Water Board to decide. The water right pre-dates the Family Farm Water Act (RCW 90.66) and therefore no special considerations relative to that Act apply to the application.

B. Proposed Development Schedule

The applicant will need to evaluate the existing systems for modifications as needed to meet operational needs. System modifications, herd size increases, dairy facility completion, and use of water as proposed is planned to be developed over the next five years, with completion of construction proposed by December 1, 2008 and full usage by December 1, 2009.

C. Review of Potential Impairment

The application requests changing the source from a spring to two wells. Diversion from the spring will be discontinued. In order to estimate pumping effects on neighboring wells, the transfer is considered as an annual withdrawal of 240 acre-feet per year, to be pumped on a year-round basis. On average, this corresponds to a withdrawal rate of 150 gpm year-round. Peaking effects can be conservatively simulated by evaluating a scenario that doubles this rate for two months. The wells proposed for use are existing wells located within the NW¼SW¼ and SW¼SW¼ of Section 35, T. 11 N., R. 22 E.W.M.; identified on the map accompanying the change application as Well Nos. 35-3 and 35-1. Additional information regarding wells in the area has been prepared as part of the Department of Ecology change No. CG4-CCV1-4P278, and pertinent documents from this file have been provided to the Water Board.

Aquifer. The aquifer that is proposed for use at the transfer site is the uppermost available aquifer, which extends to a depth of approximately 400 feet below ground. It includes the Ellensburg Formation (Eburg) above the Elephant Mountain Member (where present) together with the Upper Saddle Mountains Basalt Formation (USM). The USM lies above the Pomona Member of the Saddle Mountains Formation. The Pomona Member forms the top of the Lower Saddle Mountains Basalt Formation (LSM) which extends to

about 800 feet below ground. The LSM is a separate aquifer. The Eburg and USM formations are not differentiated as separate aquifers at this site according to previous work in the area by the Department of Ecology. (Reference LSM permits in the area such as G4-30163P, G4-30371P.) The aquifer subject of transfer is referred to herein as Eburg/USM. The general direction of groundwater flow of the Eburg/USM aquifer is south-southwesterly.

Local Pumping Effects. State law provides that other existing water rights must not be impaired when a transfer is made. Impairment, as used in water rights administration, connotes a harmful effect, to the extent that other water right holders are unable to exercise their water right, in whole or in part. In the case of groundwater rights, the concept is tied to protection of a reasonable or feasible pumping lift. A pumping effect is acceptable as long as a reasonable or feasible pumping lift is not exceeded. Groundwater right holders also bear responsibility to construct qualifying withdrawal works to make full use of the available aquifer.

To evaluate the potential for impairment, the effect of the transfer must first be predicted in terms of water level lowering in the Eburg/USM aquifer. The LSM aquifer is separate and need not be considered. A basis of 240 af/yr is used to represent the water being transferred. This can be modeled at a continuous flow rate of 150 gpm. The original water right authorizes a 300 gpm maximum flow rate, however this rate would be used intermittently such as for peak demands. The 150 gpm continuous rate would approximate the effect for long term year-round use at the dairy. The pumping effect is simulated at a site intermediate between the north and south wells to simulate, on average, equal use of the transferred water right between the wells.

The Theis non-equilibrium equation is the standard analytical model used for predicting pumping effects among wells. Using the same aquifer parameters as estimated by the Department of Ecology for this area (Report of Examination for Change, No. CG4-CCV1-4P278), values of 17,000 gal/ft/day for transmissivity and 0.005 for storativity are used. The nearest neighboring well owned by others is located approximately 2500 feet away southwesterly. After 365 days of pumping at a rate of 150 gpm, the model predicts that this well could experience a water level lowering of approximately 4 feet due to the transfer. Peak flow of 300 gpm maintained for 60 days results in a predicted 5 feet of drawdown. A longer time period of pumping at the 150 gpm basis does not substantially increase the effect. Other wells located farther away will be affected less. This magnitude of effect will not impair the Tobin and other rights in the area. Well water level data does not indicate declining water levels in the subject aquifer. The water level depth in the aquifer will remain within reasonable and feasible pumping levels.

To evaluate the scenario where the applicant may withdraw the entire water right quantity from either well, the actual distance between nearest wells is considered. The nearest distance of interest is between the applicant's south well (SW1/4SW1/4 Sec. 35, T. 11 N., R. 22 E.W.M.) and the Tobin well discussed above, a separation distance of 2300 feet. The drawdown effect is not significantly different under this scenario, with a theoretical increase in drawdown of a few tenths of one foot. Based on this analysis, the effects will not constitute an impairment to existing rights. Under these circumstances the transferred right may be withdrawn from any combination of the two wells, subject to the specific permit limits.

Effects to Spring and Yakima River. By transferring the water right from the springs to the wells, there would be a direct benefit locally to the springs and downstream reach of the river. The springs provide an important type of habitat in a reach of the Yakima River which has been targeted as critical for habitat improvement. During the irrigation season and summer months, the springs provide a cold water input to the river, and the discharge channel of the springs provides refuge for fingerlings. By discontinuing pumping from the springs, these habitat values will be enhanced. The same volume of water will still be removed from the overall hydrologic system by usage at the dairy. This means that the aquifer discharge and/or storage within the aquifer would be reduced by a like amount, which in theory would affect the downstream river in the same amount but spread over time to include the non-irrigation season, and also spread over location to downstream areas. The benefits to the springs and river of direct flow enhancement are achieved through a trade-off where effects instead occur downstream and over the time period from November-March. The non-irrigation season proportion of use is 20 acre-feet per month over five months. The Water Board considers that such effects will not impair existing rights and river flows, but will have the predominate effect of directly enhancing critical habitat values, and spring and river flow conditions, particularly in the area local to the springs.

Special Provisions. The current water right contains a provision that "This water right is issued specifically subject to the prior right of the United States, acting through the Bureau of Reclamation, who may at any time exercise its right to recover and reuse these waters either upstream or downstream from the place of diversion described in the water right for application on lands within the lands of the Yakima Federal Reclamation Project." The Water Board notes that this provision is in effect a "first in time is first in right" condition. The Board will continue this condition forward to the right as changed, but add the word "original" to clarify that the condition applies relative to the original diversion location. The applicant has indicated that due to other rights available to him, or that can be obtained as needed, he can operate his project subject to the condition.

Following the transfer, the total withdrawal from the wells would be limited to the approved quantities, to ensure that the right is not

enlarged by the transfer. No applications for change were identified by the Water Board that would be impaired should the requested change be approved. There is no perceived negative effect to any other pending change application.

Under these conditions it is clear to the Water Board that there will be no impairment to existing rights. Likewise, there will be no impairment to instream flows of the Yakima River or Crystal Springs due to the requested transfer.

D. Associated Rights and Uses

At the added place of use there are three existing state-issued water rights. One of the requested wells (within SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 35, T. 11 N., R. 22 E.W.M.) is a source for Certificate of Change Volume 1-4, Page 278 as modified by transfer approved in December 2002 (No. CG4-CCV1-4P278). The water right authorizes 240 gpm, 100 af/yr for year round dairy operations. The other two rights, Permit Nos. G4-30371P and G4-30398P, are for two different wells supplying the same general dairy facilities. G4-30398P authorizes 200 gpm, 157 af/yr from two wells for continuous dairy operation and 1 af/yr for group domestic use. G4-30371P authorizes 300 gpm and 156 af/yr for continuous dairy operation and 3 af/yr for group domestic supply; from the same two wells as G4-30398P. The quantities specified are additive. The property is also served irrigation water by the Roza Irrigation District.

With appropriate conditions being applied to ensure compliance with the water right limit following transfer, the proposed action will not conflict with any other associated water rights for the applicant.

E. Public Interest

The Water Board finds that the changes requested are consistent with public policy objectives of the state to provide for efficient use of water resources, to encourage supply of new or expanding uses through change/transfer of existing water rights, and to provide greater operational control to water managers. The Water Board finds that approval of the applications for change would enhance habitat conditions in the Yakima River, which is consistent with the objectives of the Yakima River Basin Enhancement Project. There is no identifiable negative impact to watershed planning activities. The Water Board finds that approval of the requested transfer will not prove detrimental to the public interest.

F. Verification of Existing Water Rights

A field examination was conducted by Board Member Jeff Stevens with an on-site visit on June 23, 2004. The field examination included discussing the project with the applicant, his consultant, and the owner of the current water right place of use. The existing and proposed water use sites, existing wells, and the surrounding area were viewed and inspected. The field investigation confirmed information provided by the applicant through personal communications and supporting application materials.

Documents in the Certificate file (Certificate of Surface Water Right No. 9560, the underlying water right document reviewed in the adjudication) reflect a long-standing use of water at the site. The record states that then state Senator Canfield, who obtained the certificate of water right in the 1960's, irrigated the 80 acres from Crystal Springs using sprinkler irrigation. According to the Senator, rill and flood irrigation had been used previously. The next available record appears in Yakima River adjudication documents, with testimony by the current property owner Dennis Harris. As described in the Report of Referee for Subbasin No. 26 (Granger), during evidentiary hearings held in 1996 Mr. Harris testified to continued use from Crystal Springs by means of a 30 hp pump with a capacity of about 650 gpm. The Court confirmed the certificate of water right in the amount originally granted: 0.67 cfs (300 gpm), 240 af/yr for irrigation of 80 acres from April 1 through October 31.

Mr. Harris provided information concerning his usage since 1996. He has continued to farm the property for pasture using a mixture of hand and wheel line sprinkler irrigation, and flood irrigation. Additional evidence of use consisted of aerial photos of the property for the years 1992, 1998, and 2002, the most recent year of irrigation. The aerial photos are consistent with historical irrigation during those years as presented to the Water Board. Mr. Harris related that the property has not been irrigated for the past two years due to poor beef prices (the land was being used for pasture), and because of prospects for conveying the rights to government agencies because of its recognized habitat values. The electric pump used prior to 1996 was replaced with a power takeoff drive pump with an estimated capacity of 500-600 gpm. A tractor has been used to power the pump and irrigate 80 acres. Mr. Harris reports that the springs flow year round and have always contained ample flow for pumping. Mr. Harris reported normal growth and full development of pasture cropping, and was not irrigating under deficit conditions.

Power record and fuel consumption records are not available for estimating pumped water volumes. Water use will therefore be estimated using standard industry literature for crop requirements, in combination with the owner's general description of the quality of irrigation actually applied. The Washington Irrigation Guide predicts a net irrigation requirement of 39 inches for pasture/turf (Sunnyside station data). The guide states that wheel line and hand move sprinkler efficiencies are 65%, with flood irrigation at 50%. The owner described his irrigation practices as providing for crop needs without deficit irrigation. It therefore appears likely that the actual beneficial use of

water has met or exceeded the water right limit. This is because of the flow applied and relative efficiency of the irrigation methods. Even at 65% efficiency, the normal crop application is calculated to be 60 inches, or 400 acre-feet on 80 acres, compared with only 240 af/yr on the water right.

In consideration of the water right limit, the maximum use that can be recognized is 300 gpm, 240 af/yr (equivalent to a 36 inch duty on 80 acres), even if more has historically been diverted and used. The 240 af/yr quantity would have been consumed by the crop and evaporative loss, with additional applied amounts going towards added evaporative loss or groundwater recharge, which in turn would contribute toward river flows.

The Water Board estimates the transferable quantity as 240 af/yr. The Water Board tentatively concludes that the current valid water right is 300 gpm (0.67 cfs), 240 af/yr for irrigation of 80 acres.

G. Relationship Between Original and Proposed Sources

The subject transfer is similar to a transfer approved by the Department of Ecology in December 2002, Ecology Change No. CG4-CCV1-4P278 in the name of Henry Oord. In the case of CG4-CCV1-4P278, a surface water right for irrigation from the Yakima River, which had previously been changed to a shallow well, was then transferred to the Oord Dairy for year round dairy supply. The right was transferred to the same "south well" requested in the subject change application. The following section adapts the applicable descriptions from Ecology's transfer analysis.

In the current transfer, the original source is a spring (Crystal Springs) tributary to the Yakima River. The spring is an expression of groundwater discharging to land surface and is closely connected with the Yakima River. The subject wells are located in Section 35, T. 11 N., R. 22 E.W.M., and are approximately seven miles from the Yakima River as measured in a south-southwesterly direction from the wells, and approximately 7½ miles from the original source. Groundwater flow in the area of the subject wells is to the south-southwest. The two wells (No. 35-3, north well; and 35-1; south well as identified by map submitted with the change application) are similar in construction and located approximately 600 feet apart. The north well was completed in May 1997 and had a reported static water level of 175 feet below the top of the well. On September 30, 2002 the water level in this well was 177 feet below ground. The south well was completed in November of 1992 and had a reported static water level of 158 feet below the top of the well. The north well is similar in construction and withdraws from the same aquifer as the south well. The south well is described by Ecology as follows "This well is open to the Elephant Mountain Member and the Rattlesnake Ridge interbed of the Saddle Mountains Basalt Formation. The static water level is 38 feet above the top of the Elephant Mountain basalt and separated from the unconfined upper gravels by 92 feet of clay. Based on elevation estimates the water level in the subject well is significantly higher than that of the Yakima River. Based on these characteristics, the aquifer the subject well penetrates is considered to be confined and the well is capturing water that would otherwise discharge from high head to low head in the direction of the Yakima River." Ecology Report of Examination for Change CG4-CCV1-4P278. Under these circumstances, the original and requested sources are hydraulically connected in a manner deemed suitable by the Water Board for water right transfer.

H. Technical Information Investigations or Reports Reviewed

The Water Board has reviewed the applicant's Ecology file and records contained therein, including any reports and/or comments submitted by Ecology staff, and pertinent Ecology water right records. The applicant has provided technical reports dated May 10, 2004 and July 19, 2004 addressing issues related to the transfer and providing factual data which has been used by the Water Board in its investigation and in support of conclusions made by the Water Board. Ecology's investigation and decision in water right transfer No. CG4-CCV1-4P278 was also referenced by the Board because of similarities to the subject transfer. Aerial photos were reviewed showing historic irrigation of the right being changed. The Washington Irrigation Guide was referenced for historic water use estimates and supported the Water Board's conclusion regarding the tentative validity and extent of the right being changed.

The applicant has provided technical information, personal communications, and technical references requested by the Water Board; and the applicant has communicated extensively with Water Board members to answer specific questions about the change/transfer request. The Water Board has conducted a field examination to verify the information contained within the applicant's water right and technical information submitted.

CONCLUSIONS

The Water Board has thoroughly investigated all relevant issues identified during its evaluation of the subject change application, and has discussed these issues as documented in this Report. The following conclusions are made.

1. A valid water right exists in the amount of 300 gpm and 240 af/yr for irrigation of 80 acres.

2. The requested added wells withdraw from a hydraulically connected water source suitable for transfer and equivalent to same body of public groundwater.
3. The requested change/transfer will not impair any existing rights.
4. The requested change/transfer will not cause a water level lowering below reasonable or feasible pumping lifts.
5. The requested change/transfer will not be detrimental to the public interest.

DECISION

The Water Board's decision is to conditionally approve the requested change/transfer proposal. In full description, this decision is to conditionally approve up to a maximum 300 gpm flow rate for withdrawal from two existing wells. The wells are located within the SW¼SW¼ and NW¼SW¼ Section 35, T. 11 N., R. 22 E.W.M. The decision is to conditionally approve 240 af/yr to be used for continuous dairy operation. Use from the current Crystal Springs source is to be completely discontinued under this water right.

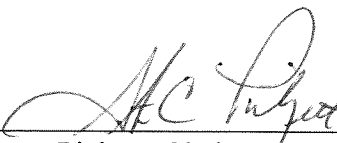
In conditionally approving the subject application, the Water Board must by statute advise the applicant that they are not permitted to proceed to effect the proposed transfers until a final decision is made by the director of the Department of Ecology.

PROVISIONS

1. Installation and maintenance of an access port as described in Ground Water Bulletin No. 1 is required. An air line and gage may be installed in addition to the access port.
2. All water wells constructed within the state shall meet the minimum standards for construction and maintenance as provided under Chapter 18.104 RCW (Washington Water Well Construction Act of 1971) and Chapter 173-160 WAC (Minimum Standards for Construction and Maintenance of Water Wells).
3. An approved measuring device shall be installed and maintained for the source(s) identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC. Water use data shall be recorded weekly and shall be submitted annually to Ecology by January 31st of each calendar year typically.
4. The rule above describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed or available from Ecology as a document entitled "Water Measurement Device Installation and Operation Requirements".
5. At a minimum, the following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, WRIA, Permit or Certificate No., source name, annual quantity used including units, maximum rate of diversion including units, period of use, monthly meter readings including units, and peak flow including units for each month. In the future, Ecology may require additional parameters to be reported or more frequent reporting.
6. Ecology prefers web based data entry, but does accept hard copies. Ecology will provide forms and electronic data entry information.
7. Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions, but only to the extent otherwise allowed by law.
8. This water right is issued specifically subject to the prior right of the United States, acting through the Bureau of Reclamation, who may at any time exercise its right to recover and reuse these waters either upstream or downstream from the original place of diversion described in the water right (Gov't Lot 3, Sec. 26, T. 10 N., R. 21 E.W.M.) for application on lands within the lands of the Yakima Federal Reclamation Project.

Signed at Yakima, Washington

This 20th day of JULY, 2004.



Steve Pickett, Chair
Yakima County Water Conservancy Board

For attachments not included or for more information please contact:

Daniel R. Haller, P.E.
Water Resources Program
Department of Ecology, Central Region Office
15 W Yakima Ave, Suite 200
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